

## **REMARKS/ARGUMENTS**

Claims 1, 2, 4-6, 9-11, 14, 16, 17, 18, 20-22, 25-27, 30, 32, and 33 are pending in the present application. Claims 3, 7-8, 12-13, 15, 19, 23-24, 28-29, and 31 are canceled. Claims 1, 2, 4-6, 9-11, 14, 16, 17, 22, 27, and 33 are amended. These claims were amended to address 35 U.S.C. § 101 issues as indicated by the Examiner. In addition, independent claims 1, 17, and 33 are amended to include the subject matter of cancelled claims 8, 12, 24, and 28. Support for the amendments to the claims is located at least in the previous draft of the claims and in the specification on page 21, lines 23-29. Reconsideration of the claims is respectfully requested.

### **I. Telephone Interview**

Applicants thank Examiner Phan and his supervisor for the courtesy extended to Applicants' representatives during the telephone interview on April 14, 2009, and during the follow-up telephone conversation with the Examiner on April 29, 2009. The Examiner stated that the amendments to independent claims 1, 17, and 33, which include the subject matter of claims 8, 12, 24, and 28 and also eliminate 101 issues, overcome the cited references. The Examiner stated that these claim amendments would likely place application 10/714,049 in condition for allowance, but an additional search would be required.

### **II. 35 U.S.C. § 101**

The Examiner has rejected claim 33 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. This rejection is respectfully traversed.

The Examiner states:

Claim 33 is rejected under 35 U.S.C. 101 because the claim, reciting "the computer program element comprising program code" the claim fails to fall within one of the four enumerated statutory categories of invention recited in 35 U.S.C. 101: process, machine, manufacture and composition of matter. The latter three categories define "thing" or "products," while a "process" consists of a series of steps or acts to be performed.

Final Office Action dated March 5, 2009, pp. 2-3.

The independent claims have been amended as requested by the Examiner to overcome this rejection. Therefore, Applicants respectfully request withdrawal of the rejection of claim 33 under 35 U.S.C. § 101.

### **III. 35 U.S.C. § 103, Obviousness**

The Examiner has rejected claims 1, 2, 4-6, 8-12, 14, 16-18, 20-22, 24-28, 30, 32, and 33 under 35 U.S.C. § 103 as being unpatentable over Rosenberg et al., U.S. Patent No. 6,937,597 (hereinafter "*Rosenberg*") in view of Kumar, U.S. Patent No. 6,269,080 (hereinafter "*Kumar*"). This rejection is respectfully traversed.

The Examiner agrees that the amendments to independent claims 1, 17, and 33 overcome the cited references. Claims 2, 4-6, 8-12, 14, 16, 18, 20-22, 24-28, 30, and 32 depend from and further restrict claims 1, 17, and 33 and also overcome the cited references. Claims 8, 12, 24, and 28 are cancelled. Therefore, Applicants respectfully request withdrawal of the rejection of claims 1, 2, 4-6, 8-12, 14, 16-18, 20-22, 24-28, 30, 32, and 33 under 35 U.S.C. § 103.

### **IV. Conclusion**

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: May 1, 2009

GHG/VJA

Respectfully submitted,

/Gerald H. Glanzman/

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